

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RES EXHIBIT SERVICES, LLC,

Plaintiff,

v.

LNW GAMING, INC. f/k/a SG GAMING,
INC. f/k/a BALLY GAMING, INC.,

Defendant.

Case No. 2:21-cv-01953-APG-EJY

ORDER

Pending before the Court are four filings: (1) ECF No. 86, Motion to Seal and Redact Plaintiff-Counterdefendant RES Exhibit Services, LLC (“RES”) and Counterdefendant James Leonardo’s (“Leonardo”) Emergency Motion to Stay this Action (filed under seal); (2) ECF No. 87, the same Motion to Seal, but redacted; (3) ECF No. 89, Counterdefendant Jeri Wiedemer’s (“Wiedemer”) Motion to Stay (not redacted and not sealed); and (4) ECF No. 90, RES and Leonardo’s Motion to Seal Wiedemer’s Motion to Stay.

RES and Leonardo’s Motions to Seal seek to seal all reference to an ongoing criminal investigation, not just the scope and direction of such investigation. No authority for sealing the fact of an investigation is cited and the Court found none. “[A] litigant who might be embarrassed, incriminated, or exposed to litigation through dissemination of materials is not, without more, entitled to the court’s protection” through a sealing order. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003) (internal citation omitted).

Accordingly, IT IS HEREBY ORDERED that the Motions to Seal and Redact RES and Leonardo’s Emergency Motion to Stay this Action (ECF Nos. 86 and 87) are GRANTED in part and DENIED in part.

IT IS FURTHER ORDERED that references to the fact of an ongoing criminal investigation appearing in the Emergency Motion to Stay this Action (ECF No. 84) are **not** properly sealed; whereas, references to and any discussion of the scope or direction of the investigation are properly sealed. *See, for example*, ECF No. 84 at 2:13-17 and 4, all redactions, not properly sealed, and

1 *compare id.* at 5:1-3 (starting with the words “The investigation involves” and ending with “with
2 LNW”), which are properly sealed.

3 IT IS FURTHER ORDERED that any references to potential testimony that discuss the
4 scope, substance, subject matter or direction of the criminal investigation are properly redacted.
5 References to the fact that testimony may result in assertion of the Fifth Amendment right not to
6 incriminate oneself are not properly redacted.

7 IT IS FURTHER ORDERED that RES and Leonardo **must refile** the **redacted versions** of
8 the Emergency Motion to Stay this Action at ECF No. 85 and Motion to Seal at ECF No. 87
9 removing redactions merely mentioning the fact of an ongoing criminal investigation. All redactions
10 referencing the scope, substance, subject matter or direction of the investigation are and shall remain
11 sealed.

12 IT IS FURTHER ORDERED that RES and Leonardo’s Motion to Seal Wiedemer’s Motion
13 to Stay (ECF No. 90) is GRANTED to the extent that Wiedemer and RES/Leonardo **must** work
14 cooperatively to file a redacted version of Wiedemer’s Motion removing from public disclosure any
15 reference to the scope, substance, subject matter or direction of the investigation at issue.

16 IT IS FURTHER ORDERED that the Clerk of Court **must immediately seal** the Motion to
17 Stay filed at ECF No. 89.

18 IT IS FURTHER ORDERED that nothing in this Order changes the due dates for responses
19 or replies to pending substantive motions.

20 DATED this 6th day of December, 2023.

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23 ELAYNA J. YOUCHAK
24 UNITED STATES MAGISTRATE JUDGE
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